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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/085,069

03/01/2002

Lynn G. Hilden

P56668

9121

7590

05/19/2006

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005

EXAMINER

BERGIN, JAMES S

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,069

Applicant(s)

HILDEN, LYNN G.

Examiner

James S. Bergin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 33-65 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RESTRICTION REQUIREMENT

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 33-53, drawn to a fuse cord comprising an RDC cord hermetically encapsulated in a metal tubing, the tubing being crimped at each end thereof onto a transfer line so as to hold the RDC cord in place in the metal tubing, classified in class 102, subclass 275.1.
 - II. Claims 54-65, drawn to a fuse cord comprising an RDC cord filling an aluminum tube, a surrounding stainless steel tube, each end portion of the stainless steel tube being crimped onto the aluminum tube so as to hold the aluminum tube in place, classified in class 102, subclass 275.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the fuse cord of the combination (independent claim 54) does not require that the RDC cord be hermetically sealed within the aluminum tube nor that the aluminum tube be crimped so as to hold the RDC cord in place within the aluminum tube. The subcombination (independent claim 33) has separate utility such as in an alternate embodiment of a fuse cord comprising and RDC cord hermetically sealed within a metal tube, either without any surrounding outer tube

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or with a surrounding rigid outer tube made from a material other than stainless steel, such as a ceramic or a heat resistant synthetic material.

3. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

FURTHER TO PRIOR ELECTION OF SPECIES REQUIREMENT

5. The reply filed on 2/28/2006 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the response filed 2/28/2006 fails to

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provide a proper and correct listing of all claims readable on the elected species. The following was previously noted in the office notice mailed 1/31/2006: on page 2 of the response filed 7/3/03, the following election was made: "Applicant provisionally elects (1) the semi flexible tubing of FIG. 3 having a percussion primer end fitting (FIG. 4) at a first end of the semi flexible tubing and a standard HE end fitting (FIG. 20) at a second end of the semi flexible end fitting, where the first end of the PP end fitting being absent any transfer manifold and the second end with the standard HE end fitting being lodged in a three port manifold, where the other two ports have a standard LE end fitting and a standard HE end fitting respectively. Applicant is making this election with traverse "

In other words, the applicant has elected a species that has a percussion primer end fitting (PP) on the first end, a HE end fitting on the second end, the HE end fitting lodged in a port of a three port manifold, the other two ports having an LE end fitting and an HE end fitting respectively. **Therefore the claims that have either a HE, LE or PP end fitting on either the first or second end are not directed to the elected species.**

See 37 CFR 1.111. In view of the above, the following recommendations are made:

a) Claims 50, 51, 60, and 61 have been correctly identified by the applicant as not reading on the elected invention (see page 15 of the response filed 2/28/2006).

However, the applicant has not formally withdrawn claims 50, 51, 60 and 61. This should now be done and the claims should be labeled as (withdrawn).

b) Claim 65 depends from claim 60 (non-elected) and as such, claim 65 should be withdrawn or have its dependency properly amended.

c) Claims 52 and 53 are not currently drawn to the elected species because the elected species requires that the first end fitting be a percussion primer (PP).

Therefore, claims 52 and 53 should be withdrawn and so labeled.

d) Claims 57 and the claims dependent directly or indirectly therefrom (claims 58, 59, claims 60, 61, 65 as previously mentioned, and claims 62, 63) are not currently drawn to the elected species because the elected species that requires the first end fitting to be percussion primer (PP) fitting rather than a HE fitting or LE fitting.

Therefore, these claims should be withdrawn and so labeled.

e) Claim 35 is not currently drawn to the elected embodiment, the elected embodiment requiring that the first end of the PP end fitting be absent any transfer manifold. Therefore claim 35 should be withdrawn and so labeled.

f) Claims 44 and 46 are not currently drawn to the elected embodiment, the elected embodiment requiring the first end fitting to be a PP end fitting rather than a HE or LE end fitting. Therefore, these claims should be withdrawn and so labeled.

g) Claims 45 and 47-49 are not currently drawn to the elected embodiment, the elected embodiment not allowing the second end fitting to be a PP fitting. Therefore, these claims should be withdrawn and so labeled.

h) On the final line of page 21, of the response filed 2/28/2006, reference is made to Figs. 1-3, Fig. 4, Fig. 10 and Fig. 20, presumably as the elected species of the invention. However it is noted that Fig. 10 has never been included in the figures representing the elected species of the invention.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Bergin whose telephone number is 571-272-6872. The examiner can normally be reached on Monday - Wednesday and Friday, 8.30 - 5.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. S. Bergin', followed by a horizontal line.

James S. Bergin